



राजपत्र, हिमाचल प्रदेश

(बसाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, १४ जनवरी, १९९५/२४ पौष, १९१६

हिमाचल प्रदेश सरकार

REGULATIONS OF PROCEDURE TO BE FOLLOWED BY THE COMMISSION OF INQUIRY (SHARMA COMMISSION)

Shimla-171001, the 3rd January, 1995

No. Comm: Inquiry (S)/94-1-3.—In exercise of the powers conferred under Section 8 of the Commission of Inquiry Act, 1952 (hereinafter referred to as the Act), the Commission of Inquiry constituted by the Government of Himachal Pradesh, *vide* Notification No. PBW (B&R) (B)3(1) 155/94, dated 7th December, 1994, which was issued in partial modification of earlier Notification of even number, dated 6th October, 1994, hereby frames the following regulations to regulate its procedure; namely:—

1. All proceedings before the Commission shall be conducted in English.
2. The headquarters and office of the Commission shall be at Shimla and the Court proceedings would be held at Shimla and such other places to be notified/intimated from time to time.

3. The office of the Commission shall function from 10.00 A. M. to 1.00 P. M. and from 2.00 P. M. to 5.00 P. M. on all days other than the holidays observed by the Himachal Pradesh State Government, unless otherwise declared by the Commission.
4. The Commission will ordinarily sit at its headquarters, but may at its discretion sit at any other place. The date, time and venue of the sitting of the Commission outside the headquarters will be notified from time to time.
5. All hearings of the Commission shall be open to public except when the Commission decides otherwise:

Provided that no visitor will be permitted to carry inside the office and Court premises of the Commission, where proceedings are to be held, any attache or a brief case, or any bag or any container or package, the contents whereof are not visible from outside or any weapon, instruments, object or substance of any kind or any equipment which can create or lead to disturbance of any kind or otherwise cause interference in the oral conduct of the proceedings of the Commission.

6. (a) The Commission shall issue a notification to be published in such a manner as it may deem fit inviting all persons or organisations acquainted with the subject matter of the enquiry to file before the Commission the statements, or affidavits relating to subject matter, as may be specified in the Notification.
6. (b) The Commission shall issue notices to every person, who in its opinion should be given an opportunity of being heard in the enquiry to furnish to the Commission the statement relating to the matters as may be specified in the notice. Every such statement shall be accompanied by an affidavit in support of the facts set out in the statement sworn by the person filing the statement.
7. All statements or affidavits under clauses (a) and (b) of Rule 6 shall be in English or Hindi and shall be drawn up in the first person and shall be divided into paragraphs to be numbered consecutively, each material statement of fact being made the subject-matter of a separate paragraph. The person making the statement or swearing the affidavit, shall state his full description with age parentage occupation, if any, and his true place of abode.
8. Every affidavit shall be verified in the following manner:—

"I.....(above named) do hereby solemnly affirm or take oath and say that the statements made by me in paragraphs No.....of the affidavit are true to my personal knowledge and those in paragraph No.....are derived from information received and believed to be true by me.
Verified.....(date) at.....Place".

9. All affidavits submitted to the Commission must be attested by a Judicial Magistrate or by an Executive Magistrate or by an Oath Commissioner in the following manner:—

"Sworn/affirmed before me by the deponent above named who is identified to my satisfaction by.....or who is personally known to me. The affidavit has been read out and explained in full to the deponent, who has signed it/thumb marked it after admitting it to be correct this.....day of.....1995."

10. Every person filing an affidavit or statement before the Commission, shall file alongwith it the list of documents, if any on which proposes to rely together with the original or true copies of the documents as are in his possession or power:

Provided that in the case of any document not in his possession or power, the statement or affidavit must contain the name and address of the person from whom such document may be obtained. Where-however, the documents referred to in the affidavit or statement is an official record it shall be sufficient if the name of the department

or office having the custody or control of such documents and full particulars of the records are specified in order to enable the Commission to call for the same.

11. Statements, affidavit, containing complaints or allegations which in the opinion of the Commission do not relate to the enquiry under the Notification appointing the Commission, shall not be entertained and those as are frivolous and trivial in nature may not at the discretion of the Commission, be entertained or enquired into. In such cases, the complainant or maker of the statement or deponent, as the case may be, will be informed accordingly:

Provided that it will be sufficient compliance of this provision if in respect of complaints received through the State Government only, the State Government is suitably informed. A list of such cases shall also be open to inspection.

12. The Commission may at any stage itself investigate any relevant matter and or for that purposes, examine any person or persons including any person who has already given statement before investigating Staff, employed by the Commission, including any person who has submitted affidavit or statement to the Commission or its investigating authority. Such examination shall not be open to public.
- 13.(a) The Commission shall examine all the statements and affidavits filed before it under Rule-6 and if after such examination, the Commission considers it necessary to record an evidence, it shall first record evidence, if any, produced by the Himachal Pradesh Government and may, thereafter, record evidence in such an order as it may deem fit;
 - (i) The evidence of such person, who has submitted a statement under clause (b) of Rule-6 and whose evidence, the Commission having regard to the statement, considers relevant for the purpose of enquiry; and
 - (ii) The evidence of any other person whose evidence in the opinion of the Commission is relevant to the enquiry;
- 13.(b) After all the evidence is recorded under Rule 13 (a) the Commission may *suo moto* or on the application of the Government of Himachal Pradesh or any other party may recall any witness already examined or examine any new witness if the Commission is satisfied that it is necessary for the proper determination of any relevant fact to do so.
14. The Commission may at any stage of the proceedings put any question to any party or witness before it, as it considers relevant and proper in order to elicit any information relevant to the enquiry.
15. No person shall have the right to insist on the oral examination of any deponent of an affidavit. In case, however, the Commission, intends to take such an affidavit into consideration, the Commission shall allow all the parties and persons referred to in Section 8-B and 8-C of the Act, the right of cross examination. The Commission in its discretion may allow re-examination of such deponents.
16. The Commission shall call from the Government of Himachal Pradesh, any complaints or representation which it might have received in relation to the matters specified in Notification No. PBW (B&R) (B) 3 (1) 155/94, dated 6th October, 1994, from the Chief Secretary to the Government of Himachal Pradesh.
17. The Commission may authorise the Secretary or any other official of the Commission to issue summons or any other process envisaged under Section 4 of the Act.
18. With the notice sent to a person, who may be affected in terms of Section 8-B and 8-C of the Act, copies of the relevant documents or statements on which reliance is placed, will also ordinarily be sent. In case, it is either not possible to supply such copies without great expense or inconvenience, such documents will be open to inspection in the

- office of the Commission on any working day during the office hours. A list of such documents which the Commission, is not sending to the person concerned, will, however, be sent to such person.
19. The Commission may at its discretion summon any person to make a statement ^{give} evidence before it. It shall, however, be not bound to summon any person, because it is requested by any person to do so.
 - 20 (a). Registered documents in original or their certified copies issued by the registration department, will as a rule, be admitted without requiring formal proof of their examination.
 - 20 (b). Official records of the Government department or Government controlled institution, statutory bodies, State undertaking, Bank and Co-operative Societies, including the office noting orders etc. may, subject to any valid claims of privilege, be admitted without any formal proof unless Commission in any particular case requires it to be proved in any of the ways laid down in the Evidence Act.
 21. The Commission will not be bound by the rules of Evidence Act, but will observe the fundamental principles of natural justice.
 22. The Commission may at its discretion take up all or any of the allegations or complaints or part of the same at a time for its consideration and proceedings.
 23. The Commission shall, if necessary, make local investigations either personally or through any person duly authorised by it into any matter falling within its terms of reference. The Commission or its authorised delegate shall make full and complete note of the inspection, which will be held after notice to the parties or their advocates appearing before the Commission. Such notes shall form part of the record of the Commission after hearing the objections of the said parties, if any.
 24. The Commission may either *suo moto* or on the application made by any person or party, delete or expunge any matter from any petition, affidavit, statement or other documents or return any such petition/affidavit, statement, document presented to the Commission, which in the opinion of the Commission is irrelevant or needlessly offensive, scurrilous or scandalous.
 25. The travelling and other expenses, as the Commission, may deem reasonable, shall be paid to a person, who is summoned to assist the Commission, if he so demands. Local residents of the place, where proceedings of the Commission's hearings are held, attending the Court of enquiry, shall not be entitled to any expenses.
 26. The Commission reserves the right to alter, modify; delete or add to these regulations at any time as and when it considers necessary to do so.

O. P. JAIN,
 Secretary to the Commission of Inquiry.
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